

Exhibit C

AdminaStar Federal (Cheryl Eiler)
Indianapolis, IN

August 26, 2008

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL) MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION:
PRICE LITIGATION) 01-CV-12257-PBS

-----X Judge Patti B. Saris

U.S. ex re. Ven-A-Care of)
the Florida Keys, Inc., v.)
Abbott Laboratories, Inc.,)
et al. No. 06-CV-11337-PBS)

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VIDEOTAPED DEPOSITION OF ADMINASTAR FEDERAL

by CHERYL EILER

The videotaped deposition of ADMINASTAR FEDERAL by
CHERYL EILER, produced and sworn before me, Aprille
Lucas, RPR, Notary Public in and for the County of
Hamilton, State of Indiana, taken on behalf of the
Defendant Dey at the offices of National Government
Services, 8115 Knue Road, Indianapolis, Indiana, on
August 26, 2008, at 1:02 p.m., pursuant to the
Federal Rules of Civil Procedure.

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| <p style="text-align: right;">130</p> <p>1 versus using brand products or using the lower of 2 the median of the, you know, product, generic 3 versus a brand. As far as how to calculate, that 4 didn't change; it's just a matter of what sources 5 as far as how you calculate it once you had the 6 information. 7 Q. So you're not referring to what prices 8 or drugs you would consider among generics, is 9 that correct? 10 A. Correct. 11 Q. You're referring just to simply how you 12 would consider the brands versus the generics? 13 A. Correct. 14 Q. Now, other than that difference, do you 15 recall any other difference or change in the way 16 you calculated prices from 1993 through the end 17 of 2003? 18 A. No. 19 Q. Now, if we -- 20 MR. HENDERSON: Did you mean to say 21 1998 to the end of 2003? 22 MR. HECK: Well, I was referring</p> | <p style="text-align: right;">132</p> <p>1 they deleted? That was something you checked each 2 time you did your quarterly updates to make sure 3 you're not calculating a code that wasn't valid, 4 because you don't want it in the system if it's 5 not valid. 6 Usually we would get notification also 7 from our policy people to let us know there was a 8 new code coming and whether it was covered or 9 non-covered. 10 Q. So when this says HCPCS updates, is it 11 essentially just a list of drugs with their 12 corresponding J-codes or K-codes? 13 A. Your HCPCS updates, that's your HCPCS, 14 and you would get them, your codes, your J-codes, 15 your K-codes, Q-codes, whatever codes is under 16 the HCPCS. 17 Q. So it would just be a list of codes 18 with descriptions, is that right? 19 A. Yes. 20 Q. Now, the next bullet indicates to check 21 recent program memorandums for drug code 22 additions, deletions, or modifications. Did you</p> |
| <p style="text-align: right;">131</p> <p>1 specifically to when she started. We could 2 certainly change it to 1998, but it's a broader 3 period of time, and if that holds true, then it 4 would hold through for '98 as well. 5 MR. HENDERSON: Okay. 6 BY MR. HECK: 7 Q. Now, if we can look at the bottom of 8 the first page under step one -- on the first 9 page. I'm sorry, I guess I lied to you. I gave 10 you a document with small print right off the 11 bat. 12 It indicates down here that you would, 13 that at least Palmetto would check the HCPCS 14 updates to see if new codes or code description 15 changes. Did you do that as well? 16 A. Yes. 17 Q. And how often would you do that? 18 A. We did that every time a new file came 19 out. So we may have gotten a file quarterly; you 20 may have gotten one yearly. It just depends on 21 when CMS sent it out. We checked all the codes 22 to make sure were they valid, were they new, were</p> | <p style="text-align: right;">133</p> <p>1 do that as well? 2 A. Yes. 3 Q. Now, if you jump to step two, it says 4 identify drug sources. Do you see that? 5 A. Mm-hmm. 6 Q. It's on the next page. Now, it appears 7 in this first bullet that Palmetto is talking 8 about the various sources that they would 9 consider when they were pricing their drugs, is 10 that correct? 11 A. Yes. 12 Q. Now, at first they indicate that they 13 would look at the RedBook CD rom. Did AdminaStar 14 consider the RedBook CD rom as well? 15 A. We do have that now. We did not have 16 it as early as Palmetto did, but we did get it 17 eventually. 18 Q. Do you know when AdminaStar started 19 getting the quarterly CDs? 20 A. I would have to look. I have all the 21 CDs from the beginning, but to tell you off the 22 top of my head, I'm not sure. It's been several</p> |

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| <p style="text-align: right;">134</p> <p>1 years.</p> <p>2 Q. But it was after Palmetto started</p> <p>3 getting the CDs?</p> <p>4 A. Yeah, because Robin told me about it,</p> <p>5 and that's how I knew it was on CD.</p> <p>6 Q. So up until AdminaStar got the CDs, you</p> <p>7 were still using --</p> <p>8 A. Using the paper.</p> <p>9 Q. -- the paper and the monthly updates,</p> <p>10 is that right?</p> <p>11 A. Yes.</p> <p>12 MR. HENDERSON: Ms. Eiler, be careful</p> <p>13 not to talk at the same time as Mr. Heck.</p> <p>14 THE DEPONENT: Oh, okay, I'm sorry.</p> <p>15 BY MR. HECK:</p> <p>16 Q. Now, it said they would then, after</p> <p>17 looking at the RedBook CD, look at the quarterly</p> <p>18 and monthly -- I'm sorry, they would look at the</p> <p>19 monthly updates, is that correct?</p> <p>20 MR. HENDERSON: Objection. Start</p> <p>21 again, perhaps.</p> <p>22 BY MR. HECK:</p> | <p style="text-align: right;">136</p> <p>1 do my updates. So that may, you know, and we</p> <p>2 would compare to see what was, you know, in it.</p> <p>3 If she had -- there was a change in that next</p> <p>4 monthly, and I didn't have it, then she would fax</p> <p>5 me a copy, so I would have that documentation</p> <p>6 until I got my book. But we did compare the</p> <p>7 monthly, the annual, and the CD.</p> <p>8 Q. So if I understand correctly, were you</p> <p>9 receiving faxes or some sort of paper copy from</p> <p>10 Palmetto of the CD's information?</p> <p>11 A. If I didn't have it, but that wasn't</p> <p>12 very often at all, and that would be in my folder</p> <p>13 as my documentation.</p> <p>14 Q. And when you say if you didn't have it,</p> <p>15 do you mean if you didn't have it from the</p> <p>16 monthly or annual publication of RedBook?</p> <p>17 A. If I did not have my monthly</p> <p>18 publication yet. If we were doing our quarterly</p> <p>19 updates, and say there was an update in the May</p> <p>20 book, but I hadn't received the May book, because</p> <p>21 sometimes you would get them at the first of the</p> <p>22 month, and then sometimes you wouldn't get them</p> |
| <p style="text-align: right;">135</p> <p>1 Q. So it indicates here that they would</p> <p>2 look at the RedBook CD or the monthly -- or the</p> <p>3 latest monthly update, is that right?</p> <p>4 A. According to their instructions, yes.</p> <p>5 Q. Now, in the next sentence they indicate</p> <p>6 that if the drug was not on their update, they</p> <p>7 would look at the annual edition of the RedBook,</p> <p>8 is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Would AdminaStar consider the annual</p> <p>11 RedBook with the monthly updates differently than</p> <p>12 Palmetto did?</p> <p>13 A. Sometimes Palmetto received their</p> <p>14 updates before we did, and until I had it</p> <p>15 actually either in writing through the</p> <p>16 publication or on the CD, I would not use it.</p> <p>17 But I did use the monthly. I still received the</p> <p>18 monthly and the annual plus the CD rom, so we</p> <p>19 still use all three sources as far as our</p> <p>20 updates.</p> <p>21 So Palmetto may have got like the April</p> <p>22 book, but I didn't get the April book in time to</p> | <p style="text-align: right;">137</p> <p>1 until the end of the month.</p> <p>2 But if we were doing our updates, and</p> <p>3 there was a change in the fee, but because I</p> <p>4 didn't have that book, and we were trying to be</p> <p>5 consistent in our fees, then she would fax me a</p> <p>6 copy of that page and the cover of the book until</p> <p>7 I could get my book. And then once I got my</p> <p>8 book, I made that documentation. But I always</p> <p>9 put it in my folder with the documentation as</p> <p>10 backup, but that didn't happen very often, so.</p> <p>11 Q. Now, you indicated that Palmetto -- I'm</p> <p>12 sorry, Robin Stone of Palmetto, is that who you</p> <p>13 were talking about?</p> <p>14 A. Yes.</p> <p>15 Q. That she would send you a fax copy of</p> <p>16 the monthly update that you hadn't received yet,</p> <p>17 is that correct?</p> <p>18 A. Correct.</p> <p>19 Q. Would she also send you a copy of some</p> <p>20 sort of printout from the RedBook CD, which is</p> <p>21 updated quarterly?</p> <p>22 A. Those we got pretty regularly, so those</p> |

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| <p style="text-align: right;">142</p> <p>1 A. When we talked about databases, there 2 was difference ones that they used other than the 3 RedBook CD rom, because they, like I said, they 4 did all three businesses, so they had access to 5 more. 6 At this time Nancy Schmidt was her 7 regional CMS -- at CMS contact. So we wanted to 8 make sure we were consistent, so that's why she 9 went to her. But I was -- I would not use 10 something that I didn't have because, in order to 11 produce the backup documentation, I had to have 12 it. And that was when we were questioning, can 13 we share it, or do we each have to have that 14 separate, you know. 15 Q. If I understand correctly from this 16 sentence, is she referring to a RedBook database 17 that she has access to? 18 A. Yes. 19 MR. SQUIER: Objection. 20 BY MR. HECK: 21 Q. And she's indicating, at least in this, 22 that it's something separate from the CDs that at</p> | <p style="text-align: right;">144</p> <p>1 to pull that information. 2 Q. Were you doing this based on a CMS 3 guideline, or was it an AdminaStar procedure, or 4 was it a personal procedures that you had? 5 A. It was a personal procedure, because I 6 wanted to make sure I had that backup. 7 Q. So you indicated you may have received 8 prices from Palmetto, but you would only 9 essentially look at them, but not use them unless 10 you got the source of them, is that right? 11 A. Correct. 12 Q. Now, if can go back to Roxane Exhibit 13 100, which is the previous document; we're not 14 quite done with it yet. Now, we are still in 15 step two, and I have a question about this second 16 bullet under step two, where it says identify the 17 generic name of the drug from the code 18 description. Always rely on the HCFA HCPCS tape 19 file. 20 Do you know what's meant by the HCFA 21 HCPCS tape file? 22 A. That's a file you get from CMS as far</p> |
| <p style="text-align: right;">143</p> <p>1 the time that you were receiving, right? 2 A. What's the date? They -- and I can't 3 answer exactly, but I do recall they had other 4 databases that they were using other than the 5 RedBook, but I just had the CD rom RedBook. 6 Q. Did they also have a RedBook-produced 7 database that they could use? 8 A. I can't answer that. 9 Q. Now, did you do you recall ever 10 receiving prices from Palmetto's databases, that 11 you did not get from the RedBook CD that you 12 would receive from RedBook? 13 A. Not that I used, no. I may have gotten 14 memos, you know, from Robin, sharing that 15 information, but unless I had that information, I 16 wouldn't have used it. 17 Q. And why did you need to have the backup 18 documentation in order to change your arrays? 19 A. For this purpose. So I, you know, I 20 could say, well, Robin gave it to me, but how do 21 I know where Robin got the information from? I 22 wanted it in writing from the source where I was</p> | <p style="text-align: right;">145</p> <p>1 as it gives you the HCPCS code, the narrative 2 description, different information as far as when 3 the code was valid and that. 4 Q. And this is a file we were talking 5 about earlier that you would check each -- 6 whenever you got it, to see if there were new 7 codes, is that right? 8 A. Yes. 9 Q. Now, it indicates on this that Palmetto 10 would use that file to determine if a drug was 11 branded or generic, is that correct? 12 MR. SQUIER: Objection. 13 A. I don't know how they determined that. 14 BY MR. HECK: 15 Q. Well, how would you determine whether a 16 drug was branded or generic while pricing drugs 17 here at AdminaStar? 18 A. By looking at the RedBook, and if the - 19 - by the way it was listed in the RedBook, if it 20 was capitalized or if it was the small print, 21 lower case, is how we would determine, or if it 22 referenced, you know, the brand from the generic.</p> |

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| <p style="text-align: right;">146</p> <p>1 Q. So if it was capitalized, it would be a 2 brand name drug, is that right? 3 A. Yes. 4 Q. And lower case would be a generic -- 5 A. Generic. 6 MR. HECK: Why don't we go off record 7 and change the tape. 8 THE VIDEOGRAPHER: Going off record, 9 it's 4:08. 10 (A recess was taken from 4:08 to 11 4:17 p.m.) 12 THE VIDEOGRAPHER: We're back on 13 record; it's 4:17. 14 BY MR. HECK: 15 Q. Ms. Eiler, when we left off we were on 16 the second bullet point under step two on page 17 two of this document. Moving to the third bullet 18 point, it indicates essentially that, where 19 they're talking about pulling all of the sources 20 from RedBook or whatever sources they're using, 21 and sort of figuring out which ones they're 22 considering, is that correct?</p> | <p style="text-align: right;">148</p> <p>1 if it was okay to not include, and they gave us 2 the okay on those. 3 Q. Now, you indicated you listed them out. 4 Where did you list these out? 5 A. They were listed in my SOP, my standard 6 operation procedures, and -- 7 Q. I'm sorry, and you're not sure if that 8 was produced, is that correct? 9 A. Correct. 10 Q. Other than you indicating that there 11 were single vial drugs and preservative-free 12 drugs, I believe, do you recall any others right 13 now that you would not consider in an array? 14 A. No. And to clarify, the preservative- 15 free was only used if that was part of the 16 narrative description of the code. 17 Q. Now, it indicates down here, at least 18 for Palmetto, in the second to last sentence of 19 this bullet point, it says consult with medical 20 director to assist in determining the most 21 frequently administered dosage. 22 Do you see that?</p> |
| <p style="text-align: right;">147</p> <p>1 MR. SQUIER: Objection. 2 A. Yes. 3 BY MR. HECK: 4 Q. Now, you indicated earlier that, when 5 you were talking with Ms. Guiliana, there were 6 certain times where there were prices that you 7 would not consider in an array, is that correct? 8 A. Yes. 9 Q. Now, what types of situations, if you 10 could just list them for me, would you not list a 11 given price in the array? 12 A. I can't give you all of them because I 13 have them listed, and it would be like 14 preservative-free. It would be if it was in a 15 pre-vial, as far as a single vial. You would 16 look at the -- you would not use all the 17 strengths. Sometimes you would try to -- you 18 only use the strengths that would accommodate 19 your code, as far as the code, and I think that's 20 one of their instructions, also. 21 But there was several, I would say a 22 half a dozen different things that we asked CMS</p> | <p style="text-align: right;">149</p> <p>1 A. Mm-hmm. 2 Q. Do you know what's meant by the term, 3 most frequently administered dosage? 4 MR. SQUIER: Objection. 5 A. As far as in my, the way I process, I 6 would ask our medical director. You wouldn't 7 want to use the, like a small vial if they were 8 using the durable medical equipment, because 9 they're using a bulk, a volume of the drug. So 10 sometimes you would ask them, if it wasn't an 11 exact match in the RedBook for that dosage, you 12 would ask, you know, their opinion. 13 BY MR. HECK: 14 Q. When you say they, you mean the medical 15 directors? 16 A. The medical directors. 17 Q. So if I understand correctly, even here 18 at AdminaStar, you would consult with the medical 19 director to determine the most frequently 20 administered dosage? 21 A. Yes. 22 Q. Now, you indicated earlier that was a</p> |

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